

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 99-1470**

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CARLOS AUGUSTO KUTZA,

Plaintiff - Appellee,

and

UNITED STATES OF AMERICA,

Defendant & Third Party Plaintiff - Appellee,

versus

ANGELO LOCANTORE,

Third Party Defendant - Appellant,

and

DENISE MARIE SHANNON,

Defendant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Alexander B. Denson, Magistrate Judge. (CA-97-729-5-729-DE)

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Submitted: August 5, 1999

Decided: August 10, 1999

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Before MURNAGHAN and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Angelo Locantore, Appellant Pro Se. Susan Waters Carr, Raleigh, North Carolina; Richard Noel Gusler, Raleigh, North Carolina; Barbara Dickerson Kocher, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Angelo Locantore seeks to appeal the magistrate judge's order holding Locantore and the United States jointly liable in an action filed under the Federal Torts Claims Act.\* We dismiss the appeal for lack of jurisdiction because Locantore's notice of appeal was not timely filed.

Parties are accorded sixty days after the entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1)(B), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on January 29, 1999. Locantore's notice of appeal was filed on April 1, 1999. Because Locantore failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the mate-

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\* This case was decided by a magistrate judge exercising jurisdiction upon consent of the parties under 28 U.S.C.A. § 636(c)(1) (West 1993 & Supp. 1999).

rials before the court and argument would not aid the decisional process.

DISMISSED